

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

In the matter of:

Numbering Resource Optimization

CC Docket No. 99-200

Petition For Forbearance From Further  
Increases In the Numbering Utilization  
Threshold Under 47 U.S.C. § 160(c)

**COMMENTS OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION  
AND OF THE PEOPLE OF THE STATE OF CALIFORNIA ON THE  
CELLULAR TELECOMMUNICATIONS AND INTERNET  
ASSOCIATION'S PETITION FOR FORBEARANCE FROM FURTHER  
INCREASES IN THE NUMBERING UTILITIZATION THRESHOLD**

**I. INTRODUCTION**

The California Public Utilities Commission and the People of the State of California (California or CPUC) submit these Comments to the Federal Communications Commission (FCC or Commission) on the Cellular Telecommunications and Internet Association's (CTIA) Petition for Forbearance from Further Increases in the Numbering Utilization Threshold (Petition). On February 24, 2003, the Commission released Public Notice (PN) DA 03-485 seeking comments on CTIA's Petition.

In its Petition, CTIA requests that the Commission freeze the utilization threshold at its current level, which is 65%. (Petition, p. 11.) In the *Second Report and Order*, the FCC adopted a 60% initial utilization threshold and held that the threshold level would be increased by 5% annually until it reaches 75%. (*Second Report and Order, Order on*

*Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking In CC Docket No. 99-200*, released on December 29, 2000, ¶¶ 22, 25.) CTIA asserts that further increases to the utilization threshold levels are not necessary because there is no imminent threat of North American Numbering Plan (NANP) exhaust and because the national numbering crisis is over. (Petition, pp. 2-3.) CTIA asserts that further increases to the threshold levels would only result in more regulatory costs without any real benefit to consumers. (Petition, pp. 8. 13-14.)

California acknowledges that the projected life of the NANP has been extended since the adoption of the utilization threshold requirements. This is so because the states and the FCC have worked together to implement reforms to the national number management system, and those reforms have produced dramatic results. The Commission should not now modify its threshold requirements as requested by CTIA because doing so poses the threat of a return to the very number management which led to the numbering crisis in the first place. Now that the sinking ship has been saved, the FCC should not alter the course that has provided such positive results. For reasons discussed below, the currently scheduled 5% annual increase to the utilization threshold should be retained until the threshold level reaches 75%.

## **II. DISCUSSION**

### **A. The Commission's Utilization Threshold Requirements Do Not Hinder Carriers' Ability to Meet Their Customer Demand.**

CTIA argues that “an unnecessarily high utilization threshold . . . increases the risk

that certain carriers, especially those that are more successful, will have an inadequate supply of numbers available to them to meet customer demand as it presents itself.”

(Petition, p. 7.) Under the current FCC utilization threshold rules, the threshold will be capped at 75%. Based on California’s experience, not only is a 75% threshold level not unnecessarily high, our experience has shown that it is the appropriate threshold. To date, no carriers have complained to the CPUC that a 75% utilization threshold is either technically or otherwise infeasible.

In 1999, as part of its number pooling rules, California adopted a 75% utilization threshold pursuant to its delegated authority from the FCC. All carriers, both pooling and non-pooling carriers, are required to satisfy a 75% utilization threshold before they can obtain growth NXX codes or number blocks. In 2000, the Commission adopted national utilization threshold requirements and set the initial threshold level at 60%. (*Second Report and Order* at ¶ 26.) Because some states, California and Maine, for example, had already established higher utilization threshold levels, the Commission held that those states could continue to use their established rates. The Commission held as follows:

State commissions that are currently using a utilization threshold pursuant to delegated authority that exceeds 60% may continue to use their utilization threshold in those areas as long as it does not exceed the Commission's established ceiling of 75%. (*Second Report and Order* at ¶ 23.)

Under California's utilization threshold requirements, if a carrier meets its 75% threshold, that carrier can quickly obtain and use immediately a new 1,000-block of numbers. With number pooling, it can take as little as three weeks from the time a carrier requests a 1,000-block from the Pooling Administrator until numbers can be assigned to customers.

In our 310 area code pooling trial, the 75% utilization threshold requirements have significantly increased the usage of numbers already held by carriers and have more closely aligned the number of 1,000 blocks available to carriers with carrier needs. We have also been able to reduce the number of 1,000 blocks assigned and still provide to carriers the number resources they actually need. Remarkably, the result of implementing a 75% utilization threshold has been a full year's extension of the life of the 310 area code.

Carriers also can obtain additional numbering resources even if they do not satisfy the threshold requirements under certain circumstances. In its *Third Report and Order and Second Order on Reconsideration*, the FCC adopted a process known as the "safety valve" which allows states the flexibility to direct the NANPA or Pooling Administrator to assign additional numbering resources to carriers that have demonstrated a verifiable need for resources that exceed the carrier's available inventory. (*Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-*

2000, released on December 28, 2001, ¶ 57). In other words, it allows carriers to obtain more numbering resources even if they do not meet the utilization threshold in a given rate center. California has granted several “safety valve” requests since the FCC adopted this process and will continue to do so in appropriate circumstances. Moreover, in California, a 75% threshold level has resulted in more efficient utilization of numbering resources by carriers and has not in anyway prevented carriers from meeting their customers’ numbering needs.

**B. Forbearance From Further Increases in the Utilization Threshold Is Not In the Public Interest**

CTIA asserts that higher utilization levels are not in the public interest because the national numbering crisis is over and the projected life of NANP has been extended by more than twenty years. (Petition, pp. 2-3.) While California agrees that the utilization threshold requirements have reduced the imminent threat of NANP exhaust, California also believes that further increases to the threshold levels are in the public interest because they would result in more efficient use of numbering resources, further extend the life of the NANP, and further encourage carriers to use numbers in their existing inventory before requesting more numbers from NANPA or the Pooling Administrator. A higher threshold rate would also eliminate carriers from stockpiling numbers for which they have no immediate need and deter them from making overly optimistic projections of growth.

Forbearance from further increases in the utilization threshold, on the other hand, could significantly impair the Commission's ability to continue to effectively manage the efficient use of numbering resources and as a result, jeopardize its sound public policy goals for numbering resource optimization. In the *Second Order*, the Commission noted:

“We gradually increase the utilization level by 5% because we seek to give carriers sufficient time to increase the efficiency with which they use numbering resources above current levels and to use numbers currently in their inventories before they obtain more resources. We remain concerned that many carriers may be doing little if anything to groom their numbering inventories to minimize waste of these important resources; this mandate should make all carriers take significant and measurable steps to improve their utilization. “ (*FCC Second Order at ¶ 25.*)

Indeed, if the threshold is frozen at 65%, there would be no incentive for carriers to become more efficient in their number usage and further minimize the waste of numbering inventories as the Commission noted in the above Order. Freezing the utilization threshold at 65% could also unduly accelerate exhaustion of scarce numbering resources and burden customers with premature area code changes. Moreover, the Commission should not freeze the threshold level at 65% and reverse the significant headway it has made until now. In other words, freezing the utilization threshold would turn back the clock on progress the FCC and the states have achieved in implementing comprehensive number management reforms.

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**C. CTIA Has Not Adequately Shown that Higher Threshold Levels Will Significant Raise Their Number Management Costs.**

CTIA also argues that higher utilization levels will impose significant number management costs on carriers with little resulting benefit to customers. (Petition, p. 8.) However, CTIA has provided no specific cost data or detailed cost-benefit analysis to support its assertion. Even if costs of providing service go up as a result of further increases to the threshold levels, California can hardly imagine that such increases would result in significantly more costs to carriers since the threshold level is only scheduled to increase by 5% annually until it reaches 75%. The CPUC also notes that carriers, and in particular, wireless carriers, routinely complain of the costs of implementing number management and conservation reforms. They never acknowledge the costs to the public of failing to effectively manage the number supply. We remind the FCC that between 1996 and 1999, California was forced to virtually double its number of area codes precisely because of the bad number management practiced by the telecommunications industry.

**D. California Should Be Allowed to Continue to Use Its Established Utilization Threshold Even If CTIA's Forbearance Request is Granted.**

If the Commission grants CTIA's request for forbearance, at a minimum, the FCC should allow states that have a 75% utilization threshold to keep and to continue use their higher utilization thresholds. The Commission correctly recognized in its *Second Order* that allowing states to maintain their 75% threshold rates will allow them to continue the progress already achieved with higher utilization thresholds. Therefore, the Commission

should not mandate that all states adhere to the national utilization threshold requirements even if CTIA's forbearance request is granted.

### **III. CONCLUSION**

For the foregoing reasons, the CPUC respectfully requests that the Commission deny CTIA's request for forbearance from further increases in the numbering utilization threshold. CTIA has offered no evidence that carriers are technically or otherwise precluded from using more of their existing inventory before requesting more numbering resources such that forbearance from further increases in the utilization threshold is necessary. Therefore, keeping the current utilization threshold requirements is in the best interest of the public.

Respectfully submitted,

GARY COHEN  
HELEN M. MICKIEWICZ  
LIONEL WILSON  
SINDY J. YUN

By: /s/ SINDY J. YUN

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Sindy J. Yun

Attorneys for the California  
Public Utilities Commission

505 Van Ness Ave.  
San Francisco, CA 94102  
Phone: (415) 703-1999  
Fax: (415) 703-4432

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